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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,490	02/05/2004	Klein S. Gilhousen	QCPA24C1C2C1D2	4971
23696	7590	01/24/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			TRAN, KHAI	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicant No.</b>	<b>Applicant(s)</b>
	10/772,490 Khai Tran	GILHOUSEN ET AL. Art Unit 2637

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 22-35 is/are allowed.
- 6) Claim(s) 1,3,6-8,10,11,13,15 and 20 is/are rejected.
- 7) Claim(s) 2,4,5,9,12,14,16-19 and 21 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/24/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 6, 13, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (U.S. Pat. 4,607,375).

Regarding claim 1, Lee discloses a spread spectrum signal receiver as shown in Figure 5, comprising: a PN sequence generator (25) for generating a PN sequence; a correlator (31) coupled to the PN sequence generator (21) and configured to produce a despread signal by correlating the generated PN sequence and received spread spectrum signal; and processing circuit (a synchronization system 34) coupled to the correlator for processing the despread signal to extract time information therefrom.

Regarding claim 3, Lee discloses the despread signal comprising a sync signal (a synchronization system 34).

Regarding claim 6, Lee also discloses an RF receiver coupled to the signal input (Fig. 5).

Claims 13, 15 are similar to claims 1, 3. Therefore, claims 13, 15 are rejected under a similar rationale.

***Doubl Pat nting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 6, 7, 8, 10, 11, 13, 20 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9, 11, 12, 15, 16, 17, 18, 21 of U.S. Patent No. 6,693,951 in view of Lee (U.S. Pat. 4,607,375). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 6, 7, 8, 10, 11, 13, 20 of the instant application merely broadens the scope of the claims 9, 11, 12, 15, 16, 17, 18, 21 of the U.S. Pat. 6,693,951 by

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eliminating the elements and their functions of claims 9, 11, 12, 15, 16, 17, 18, 21 of the U.S. Patent. It has been held that the omission an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Carlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd.App.1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

Regarding claims 1, the U.S. Pat. 6,693,951 fails to disclose a use of the processing circuitry for extracting time information from the despread signal. However, Lee disclose that the information time is extracted from the despread signal by using a synchronization system (34). It would have been obvious to one having ordinary skill in the art at the time invention was made to utilize the synchronization system taught by Lee into the teachings of U.S. Pat. 6,693,951 in order to fine tune the synchronization.

***Allowable Subject Matter***

4. Claims 22-35 are allowed.
5. Claims 2, 4-5, 9, 12, 14, 16-19, 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is a statement of reasons for the indication of allowable subject matter: none of the prior art of the record discloses or suggests a spread spectrum communication system comprising: two receiving system each for receiving independently a user unit signal transmitted from a user as a direct sequence spread spectrum signal within which an information signal is modulated; and a diversity

combiner coupled to the two receiving system for combining signals received thereby to reconstruct the unit signal as recited in claim 22; and a fist cell site unit configured to communicate through a direct sequence spread spectrum digital wireless link with at least one mobile unit; and a second cell site unit configured to communicate through a direct sequence spread spectrum digital wireless link with at least one mobile unit, and wherein the first and second cell site units are synchronized to each other.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Osborne et al (U.S. Pat. 4,225,976) disclose a spread spectrum receiver.

Thro (U.S. Pat. 4,670,906) discloses a data communication system transmitter selection method and apparatus.

Adams (U.S. Pat. 5,034,961) discloses an area communication system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI TRAN whose telephone number is (571) 272-3019. The examiner can normally be reached on 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAY PATEL can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KHAI TRAN  
Primary Examiner  
Art Unit 2637

**19 January, 2005**